



Maryland Health Benefit Exchange

Request for Proposal

Business Process Consultant to support the Maryland Health Benefit Exchange

Issue Date: 5/2/2012

NOTICE

Prospective Contractors resources who have received this document from the Maryland Health Benefit Exchange's web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that addenda to the RFP or other communications can be sent to them.

Minority Business Enterprises are Encouraged to Respond to this Solicitation

MARYLAND HEALTH BENEFIT EXCHANGE

KEY INFORMATION SUMMARY SHEET

Request For Proposal

Business Process Consultant

Request For Resumes: Business Process Consultant

Issue Date: 5/2/2012

Procurement Officer: **Leslie Lyles Smith**
Director of Operations, Maryland Health Benefit Exchange
4201 Patterson Ave.
4th Floor
Baltimore, MD 21215
Phone Number: 410-358-5616
Email: llylessmith@dhmh.state.md.us

Contract Monitor: **Kevin Yang**
Chief Information Officer
4201 Patterson Ave.
4th Floor
Baltimore, MD 21215
Phone Number: 410-358-5617
Email: kyang@dhmh.state.md.us

Procurement Method: Competitive Sealed Proposals (for a Firm Fixed Price)

Proposals are to be sent to: Maryland Health Benefit Exchange
Via: email in pdf format
kyang@dhmh.state.md.us
A confirmation email will be sent within 24 hours of receipt of proposal.

Closing Date and Time: 2:00 PM Local Time on 5/14/2012

MBE Subcontracting Goal: 0 %

SECTION 1 – Background

1. Introduction.

Signed into law by President Obama on March 23, 2010, the Patient Protection and Affordable Care Act of 2010 (ACA) requires States to begin operating a Health Insurance Exchange by January 1, 2014 or to allow the federal government to operate an Exchange on their behalf. In legislation adopted April 12, 2011, the State of Maryland established its own Exchange, the Maryland Health Benefit Exchange (the Exchange). The Exchange will provide Maryland residents and small businesses with the opportunity to compare health plans based on rates, benefits, and quality and to enroll in the product that best suit their needs. It also will be the entity that evaluates eligibility for Medicaid, advance premium tax credits and other affordability programs designed to make coverage more affordable for individuals below 400 percent of the federal poverty level (FPL).

A critical element of making the Exchange operational is the development of business policies and standard operating procedures that align to the Exchange's information technology systems and capabilities. The Exchange, through this solicitation, is seeking the services of a Business Process Consultant on a fixed unit labor rate basis to support these critical functions to lead the development of key business process and organizational change management deliverables that will inform the design of the core Exchange information systems as well as the aforementioned business policies and procedures.

2. Background.

Maryland applied for and received Planning, Early Innovator and Level 1 Establishment federal cooperative agreement funds to implement the ACA. These funds were used to develop specifications and requirements for the extensive information technology system that implements the ACA in Maryland, and to establish the Health Benefit Insurance Exchange. Further, Maryland is working on the development of a Level II Establishment grant to access federal funds for the remainder of Exchange set-up through 2014.

The ACA – the national health care reform law – provides Maryland with the opportunity to dramatically improve health care for Maryland across a number of areas: insurance & coverage, health care delivery, quality and control, and information systems. To this end, policy, operations and key information systems are a top focus.

There are several immediate priorities in implementing key deliverables for the Exchange: (1) developing an eligibility and enrollment interface with full functionality to support both Medicaid eligibility and Exchange functions, (2) applying for and receiving Level 2 grant funding to continue development of the IT system and establish operations of the Exchange, and (3) receiving certification from the Centers for Consumer Information and Insurance Oversight (CCIIO) by January, 2013. All three of these require the Exchange to create a comprehensive business process change management plan, which CCIIO and other stakeholders will use to evaluate the progress by the state of Maryland.

As a recipient of federal grants, Maryland will provide updates on its progress in defining and implementing key information systems strategies across these three areas to the US Department of Health and Human Services (HHS) as well as other states on an ongoing basis. Maryland expects to be a leader in implementing health care reform and the Exchange Business Process Consultant will play a critical role in ensuring Maryland's success. Moreover, a solid understanding of as-is and to-be business processes developed in conjunction with Medicaid and Exchange stakeholders will

provide the foundation to allow the Maryland Health Benefit Exchange to continue to develop and refine new capabilities as the law or market demands. Achieving the objectives of scalable, flexible, and extensible business processes and operating procedures are of utmost importance to making the Exchange adaptable and sustainable over the long term.

3. General Requirements

The Exchange seeks an experienced and qualified Business Process Consultant to provide leadership and guidance in developing business process re-engineering artifacts that clearly define how business processes and key stakeholders will be impacted by technology and how those business processes will change to meet the requirements of the ACA. This is a full time contractual position. The Business Process Consultant will work under the direction of the Exchange Project Management Office (PMO) and be expected to help drive standards and best practices for business process change. The candidate will be working with both business and IT leadership across the State and with key external vendors and market stakeholders to successfully produce required deliverables.

4. Contractor Responsibilities.

The Exchange intends to obtain services, as specified in this RFP, through a contract between the successful offeror(s) and the Exchange. The Exchange intends to make a single award to the Offeror whose proposal is deemed to be the most advantageous to the Exchange. The contractor resource, either directly or through its subcontracted resource, must be able to provide all services and meet all of the requirements requested in this solicitation.

SECTION 2 – SCOPE OF WORK

1. Through this RFP, the Exchange seeks a resource to perform as-needed business process analysis activities which include but are not limited to the following:
 - Establish and drive a functional fit and gap analysis between Maryland's requirements and what needs to be custom developed by the IT team. These custom requirements will be further defined and documented through the course of the project.
 - Ensure that the deployed solution will meet the specified business requirements.
 - Compare and contrast Maryland's business process improvement requirements with those of other states.
 - Lead the definition and documentation of business processes for which the modern eligibility and enrollment system, individual Exchange, and SHOP (small business health option plan) will be designed. Ensure all business processes for Maryland's envisioned technical and business solutions are fully documented and reflect current expectations moving forward.
 - Review various State and stakeholder systems to identify the business processes, services and functions that may be leveraged for the Exchange.
 - Identify changes in policies and/or the business processes themselves that may affect deployment activities
 - Support stakeholder agencies in the planning and development of new business policies and standard operating procedures aligned to the capabilities of the new IT systems
 - Identify business benefits per cost associated with as-is current state, as well as the benefits expected to be realized in the future state i.e. enhanced eligibility and enrollment system under ACA and Health Care Reform.
 - Conceptualize and produce specific diagrams related specific systems as well as a comprehensive / complete system diagrams that illustrate dependencies of all interrelated systems and processes within BPMN.
2. The Offeror shall demonstrate by the resume provided that the proposed Business Process Consultant is qualified to perform in the job specified. Proposed personnel may not be substituted without the prior agreement of the Contract Monitor. The Offeror shall have the following list of skills and experiences to be successful as the Business Process Consultant:
 - Strong business process management skills and experience, including development of business vision and strategies, functional decomposition, requirements capture, process modeling.
 - Experience in software development methodologies and structured approaches to system development.
 - Must be proficient acting in and leading integrated process teams, as well as coordinating and communicating customer requirements.
 - Extensive experience with creating and conducting user acceptance and end-to-end

training in smaller groups of 2-5 individuals as well larger groups for 20-50.

- Have broad and diverse background in such areas as: business analysis, applications/systems engineering, and information operations/architectures.
- Excellent understanding of delivering solutions utilizing service oriented architectures.
- Extensive experience with developing high level process maps as well workflow diagrams, utilizing industry methodologies like or similar to BPMN.
- A resume and interview that demonstrate a “can do” resilient attitude, high energy, and creativity are required along with an ability to work unsupervised while handling multiple priorities.
- Ability to conceptualize and draw specific diagrams related specific systems as well as an comprehensive / complete system diagrams that illustrate dependencies of all interrelated systems and processes within BPMN.
- Experience implementing major enterprise software solution (CRM, ERP, MED, EDMS, etc.) or consumer solutions (eCommerce, marketplaces, social networks).
- A bachelor’s degree in business, information systems, public policy or related field with a master’s degree preferred.
- At least five years of related work experience some of which should be in the health care insurance or social services arena.

SECTION 3 – PROPOSAL FORMAT

- A. **Format.** Offers shall submit two distinct proposals: a technical proposal consisting primarily of brief corporate background and resume and a financial proposal. These should be separate documents, though they should be submitted together. The technical proposal inclusive of resume should be no longer than 10 pages (except if more than one resume is offered – see below).
- B. **Submission.** Offers shall submit proposals via email in pdf format with separate documents clearly labeled as “technical proposal” and “pricing proposal.”
1. The technical and financial proposals should submitted together indicating the RFP title, the Contractors resources’ name and address, and distinguishing the technical proposal from the financial proposal.
 2. **PIA Electronic Copy.** The Contractors resources must also submit a second electronic version of each of the technical and financial proposals redacting all confidential and/or proprietary information for Public Information Act (PIA) requests.
- C. **Technical Proposal.** The Technical Proposal shall not exceed ten pages and include the following in order:
1. **Corporate Qualifications.** Offerors shall describe how their organization can meet the requirements of this RFP and shall include the following:
 - a. An overview of the Offeror’s experience and capabilities providing similar services.

- b. The names and titles of key management personnel directly involved with supervising the services rendered under this Contract.
- 2. Resume of Proposed Staff. Offerors may submit more than one resume, in which case offerors may add 5 pages per additional resume to their technical proposal.
- 3. Signed copies of each attachment identified in Section 6 to this RFP. (These attachments may be provided as appendices and will not count towards the page limits on the technical proposal).

D. Financial Proposal.

The Financial Proposal should provide a fully-loaded rate for the proposed resource for each contract period according to the schedule below. The rate must be inclusive of any daily commuting costs and parking expenses to the primary Exchange work location, which will be in the Baltimore metro area. These expenses will not be reimbursed by the Exchange. Additionally, the price proposal should include a fixed price amount by contract period using 2000 hours per year, which will serve as a not-to-exceed payment amount for that individual for the period. The contract periods include a base period of 13 months, a first optional period of 6 months, and a second optional period of 6 months. While it is anticipated that the contractor resource may be required to work more than 40 hours in a given week to meet strict deadlines as established by the Exchange, the Exchange will not allow contractors to bill for more than the maximum number of government work hours within a given month without prior approval of the contract monitor. Contractors who do work more than 40 hours within a given week will have the flexibility to work fewer hours in other weeks to stay within the monthly billing parameters described above.

Contract Phase	Duration	Estimated Hours	Hourly Labor Rate	Fixed-Price Total for Contract Period*
Base	June 2012 – Jun 2013	2100	\$	\$
Optional Period 1	Jul 2013 – Dec 2013	1000	\$	\$
Optional Period 2	Jan 2014 – Jun 2014	1000	\$	\$
TOTAL				

* Based on 2000 hours / year, or 1000 hours for each contract period

The Exchange does not guarantee any maximum or minimum number of hours to be provided but the contract shall establish a not to exceed contract amount.

Authorized Individual Name

Company Name

Title

Company Tax ID #

SECTION 4 – EVALUATION CRITERIA

- A. Evaluation of proposals will be based on the criteria set forth below. The Contract(s) resulting from this RFP will be awarded to the Offeror(s) that is most advantageous to the Exchange considering price and the technical factors. In making this determination, technical factors will receive greater weight than price factors. The evaluation team will determine which proposals satisfy the requirements of this RFP by considering the following technical criteria on a descending order of importance basis, as follows:
- a. 70%- Qualifications and experience of proposed staff with similar projects and their experience as it relates to the requirements defined in Section 2;
 - b. 20%-The value of the proposal in terms of the fee quoted by the Offer in relation to the work to be performed, i.e. cost;
 - c. 5%-Corporate capability and past performance of the Offeror; and
 - d. 5%-Financial stability of the Offeror.

SECTION 5 - GENERAL INFORMATION

- A. The Contract that results from this RFP shall be a fixed unit rate contract.
- B. The Contract resulting from this RFP shall be for a period of approximately 13 months beginning on or about June 1, 2012. The Offeror shall provide services upon receipt of a Notice to Proceed from the Contract Monitor.
- C. The sole point of contact in the Exchange for purposes of this RFP prior to the award of any Contract is the Procurement Officer at the address listed below:

Leslie Lyles Smith
Director of Operations, Maryland Health Benefit Exchange
4201 Patterson Ave.
4th Floor
Baltimore, MD 21215
Phone Number: 410-764-5616
Email: llylessmith@dhmh.state.md.us

The Exchange may change the Procurement Officer at any time by written notice.

- D. The Contract Monitor is:

Kevin Yang
Chief Information Officer
4201 Patterson Ave.
4th Floor
Baltimore, MD 21215
Phone Number: 410-358-5617
Email: kyang@dhmh.state.md.us

The Exchange may change the Contract Monitor at any time by written notice.

- E. If it becomes necessary to revise this RFP before the due date for proposals, addenda will be provided to all prospective Offerors who were sent this RFP or otherwise are known by the Procurement Officer to have obtained this RFP. In addition, addenda to the RFP will be posted on the Exchange web page and through eMaryland Marketplace. Addenda made after the due date for proposals will be sent only to those Offerors who submitted a timely proposal.
- F. The Exchange reserves the right to cancel this RFP, accept or reject any and all proposals (in whole or in part) received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the Exchange's best interests. The Exchange also reserves the right, in its sole discretion, to award a Contract based upon the written proposals received without prior discussions or negotiations.

- G. The Exchange is not responsible for Offeror's costs incurred in preparing and submitting a proposal, in making an oral presentation, in providing a demonstration, or in performing any other activities relative to this solicitation.
- H. By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. Payment by electronic funds transfer is mandatory for contracts exceeding \$100,000. The selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAD X-10 form can be downloaded at: <http://compnet.comp.state.md.us/gad/pdf/GADX-10.pdf>.
- I. By submitting an offer in response to this RFP, a Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment A**. Any exceptions to this RFP or the contract must be raised prior to May 7, 2012. The Exchange shall evaluate all exceptions noted by all potential Offerors and respond to all such exceptions and questions by May 9, 2012. Changes to the solicitation or contract made by the Offeror after proposals are due on May 14, 2012 shall result in rejection of the Offeror's proposals.

SECTION 6 – ADDITIONAL MATERIALS TO SUBMIT

- A. This solicitation contains federal funds through an Establishment Grant under a Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges (CFDA number 93.525). Accordingly, there are programmatic conditions that apply to this contract, which are contained in **Attachment B**. Acceptance of this Contract indicates your intent to comply with all conditions, which are part of this Contract.
- B. All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror's personnel and each of the participating subcontractors personnel shall be required to complete agreements such as **Attachment C** Conflict of Interest Affidavit and Disclosure.
- C. A proposal submitted by an Offeror must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as **Attachment D** of this RFP.

SECTION 7 - ATTACHMENTS

- A. State Contract
- B. Federal Funding Programmatic Conditions
- C. Conflict of Interest Affidavit
- D. Affidavit

ATTACHMENT A – STANDARD CONTRACT

SR. TECHNICAL ARCHITECT CONTRACT (the “Contract”) is made this _____ by and between _____ (the “Offeror”) and the Maryland Health Benefit Exchange (the “Exchange”).

In consideration of the promises and the covenants herein contained, the parties agree as follows:

1. Scope of Work.

- A. The Offeror shall provide all deliverables as defined in Section 2 of the RFP attached hereto as an Exhibit. These services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached hereto and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – The Technical Proposal

Exhibit C – The Financial Proposal

- B. The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. Unless agreed to in writing by the Offeror, no other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Offeror to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section agreed to by Offeror causes an increase or decrease in the Offeror’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Offeror must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Offeror shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Offeror from proceeding with the Contract as changed.
- C. Modifications to this Contract may be made provided (a) the modifications are made in writing and (b) all parties sign the modifications.
- D. The Exchange will provide all necessary and reasonably requested information, direction and cooperation to enable Offeror to provide the services provided hereunder, and any direction (whether verbal or written) shall be effective if received (whether verbally or in writing) from a person known to Offeror or reasonably believed by Offeror to be authorized to act on the

Exchange's behalf. Offeror shall be permitted to use all information and data supplied by or on behalf of the Exchange without having independently verified the accuracy or completeness of it except to the extent required by generally accepted professional standards and practices..

- E. Neither the Contract nor the provision of the services is intended to confer any right or benefit on any third party. The provision of services under this Contract cannot reasonably be relied upon by any third party.

2. **Period of Performance.** This Contract shall be for a period of approximately 13 months beginning on or about June 1, 2012 and ending on July 31, 2013 with two optional renewal periods. Each option will be exercised if at all, at the sole discretion of the Exchange. The Offeror shall provide services upon receipt of a Notice to Proceed from the Contract Monitor.

3. **Consideration and Payment**

- A. In consideration of the satisfactory performance of the work set forth in this Contract, the Exchange shall pay the Contractor in accordance with the terms of this Contract and at the rates specified in the Contractor's Financial Proposal. Except with the express written consent of the Procurement Officer, payment to the Contractor, pursuant to this Contract, shall not exceed a total of \$_____.00 in the base period from June 1, 2012 to June 30, 2013 payable at the rates listed below per hour worked as approved by the Exchange. Payment in the first optional renewal period from July 1, 2013 to December 31, 2013 not exceed \$_____.00 payable at the rate listed below under "Option Period 1 Rate" as approved by the Exchange. Payment in the second optional renewal period from January 1, 2014 through June 30, 2014 shall not exceed \$_____.00 payable at the rate listed below under "Option Period 2 Rate" as approved by the Exchange. Only the specific named resources below from the Contractor's Financial Proposal are authorized to perform services on behalf of the Exchange.

Resource	Base Contract Rate	Option Period 1 Rate	Option Period 2 Rate
	0	0	0

- B. Payments to the Offeror shall be made no later than thirty (30) days after the Department's receipt of a proper invoice for services provided by the Offeror, acceptance by the Exchange of services provided by the Offeror, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must include the Offeror's Federal Tax Identification Number which is _____. Charges for late payment of invoices other than as prescribed by Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 1, are prohibited. Invoices shall be submitted to the Contract Monitor. Electronic funds transfer shall be used by the Exchange to pay Offeror pursuant to this Contract and any other Exchange payments due Offeror unless the State Comptroller's Office grants Offeror an exemption.

- C. In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Offeror fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Offeror to be reduced or withheld until such time as the Offeror meets performance standards as established by the Procurement Officer.

4. Rights to Records

- A. The Offeror agrees that all documents and materials including but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Offeror, for purposes of this Contract shall be the sole property of the Exchange and shall be available to the Exchange at any time. The Exchange shall have the right to use the same without restriction and without compensation to the Offeror other than that specifically provided by this Contract.
- B. The Offeror agrees that at all times during the term of this Contract and thereafter, only those documents, materials and other deliverables created or developed by Offeror specifically and exclusively for the Exchange pursuant to the Contract will be considered the sole property of the Exchange or “work made for hire” as that term is interpreted under U.S. copyright law and exclusively owned by the Exchange (collectively, “Work”).
- C. To the extent that any products created as a deliverable under this Contract are not Work, the Offeror hereby relinquishes, transfers, and assigns to the Exchange all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the Exchange in effectuating and registering any necessary assignments.
- D. The Offeror shall report to the Exchange, promptly and in written detail, each notice or claim of copyright infringement received by the Offeror with respect to all data delivered under this Contract.
- E. The Offeror shall not affix any restrictive markings upon any data, documentation, or other materials provided to the Exchange hereunder and if such markings are affixed, the Exchange shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- F. Notwithstanding anything to the contrary in the Contract, Offeror will retain all patent, copyright and other intellectual property rights in the methodologies, methods of analysis, ideas, concepts, know-how, models, tools, techniques, skills, knowledge and experience (collectively, "Intellectual Property") owned or possessed by Offeror before the commencement of, or acquired by Offeror during or after, the performance of the Services. To the extent that any of Intellectual Property is embodied in any of the Work, Offeror will grant to the Exchange a nonexclusive, non-transferable, royalty-free license to use the Intellectual Property for its internal use, but solely in connection with and to the extent necessary for use of the Work as contemplated by the Contract. Unless Offeror provides its prior written consent, the Exchange will not use, or disclose to any third party, Offeror's advice or Work other than as mutually contemplated by the parties when Offeror first was retained to provide such advice or Work or as required by law.

5. **Exclusive Use.** The Exchange shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Offeror in connection with this Contract. If any material, including software, is capable of being copyrighted, the Exchange shall be the copyright owner and Offeror may copyright material connected with this project only with the express written approval of the Exchange.
6. **Patents, Copyrights, Intellectual Property**
- A. If the Offeror furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, or copyright or which is proprietary to or a trade secret of another, the Offeror shall obtain the necessary permission or license to permit the Exchange to use such item or items.
- B. The Offeror will defend or settle, at its own expense, any claim or suit against the Exchange alleging that any such item furnished by the Offeror infringes any patent, trademark, service mark, copyright, or trade secret; provided, however, that Offeror's indemnity obligations under this Section should not apply to any claim for infringement or misappropriation of intellectual property rights to the extent any such infringement or misappropriation is caused by: (i) information or materials provided by the Exchange or a third party other than Offeror's subcontractors resources, if any, (ii) modifications made by the Exchange or a third party other than Offeror's subcontractors resources to Services, Work or Offeror's other materials provided to the Exchange in connection with the Services, or any parts, thereof, or (iii) the Exchange's use of Services, Work or such other materials or any parts thereof, in a manner inconsistent with the terms of the Contract. If a third party claims that a product infringes that party's patent, trademark, service mark, trade secret, or copyright, the Offeror will defend the Exchange against that claim at Offeror's expense and will pay all damages, costs and attorney fees that a court finally awards, provided the Exchange (i) promptly notifies the Offeror in writing of the claim; and (ii) allows Offeror to control and cooperates with Offeror in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 6(C) below.
- C. If any products furnished by the Offeror become, or in the Offeror's opinion are likely to become, the subject of a claim of infringement, the Offeror will, at its option and expense: (a) procure for the Exchange the right to continue using the applicable item, (b) replace the product with a non-infringing product substantially complying with the item's specifications, or (c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.
7. **Confidentiality.** Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Offeror's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party, (d) was supplied to

such party by a third party lawfully in possession thereof and legally permitted to further disclose the information or (e) which such party is required to disclose by law.

8. Indemnification

- A. The Offeror shall hold harmless and indemnify the Exchange from and against any and all losses, damages, claims, suits, actions, liabilities and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Offeror or its subcontractors under this Contract.
- B. The Exchange has no obligation to provide legal counsel or defense to the Offeror or its subcontractors resources in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Offeror or its subcontractors resources as a result of or relating to the Offeror's obligations under this Contract.
- C. The Exchange has no obligation for the payment of any judgments or the settlement of any claims against the Offeror or its subcontractors as a result of or relating to the Offeror's obligations under this Contract. The Exchange shall not assume any obligation to indemnify, hold harmless, or pay attorney's fees that may arise from or in any way be associated with the performance or operation of this Contract.
- D. The Offeror shall immediately notify the Procurement Officer of any claim or suit made or filed against the Offeror or its subcontractors resources regarding any matter resulting from, or relating to, the Offeror's obligations under the Agreement, and will cooperate, assist and consult with the Exchange in the defense or investigation of any claim, suit, or action made or filed against the Exchange as a result of, or relating to, the Offeror's performance under this Contract.

9. **Non-Hiring of Employees.** No employee of the Exchange or of the State of Maryland, or any department, commission, agency, branch or unit thereof, whose employee duties include matters relating to or affecting the subject matter of this Contract, shall, while so employed, become or be an employee of the party or parties hereby contracting with the Exchange.

10. **Disputes.** Disputes arising under this Contract which cannot be resolved between the Offeror and the Contract Monitor for the Exchange shall be forwarded to the Exchange's Executive Director. For disputes associated with contracts valued at less than \$75,000, the decision of the Executive Director or designated procurement officer is final. For disputes associated with contracts valued at \$75,000 or more, the Offeror may appeal the Executive Director's decision to the Exchange's Board of Directors. The decision of the Exchange's Board of Directors is final. Pending resolution of any such dispute, the Offeror shall proceed with the performance of this Contract.

11. **Maryland Law.** This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

12. **Nondiscrimination in Employment.** The Offeror agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any

underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors resources to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

13. Contingent Fee Prohibition. The Offeror warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Offeror, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or other consideration contingent on the making of this Contract. For breach or violation of this warranty, the Exchange may terminate this Contract without liability, or deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

14. Termination for Cause.

- A. If the Offeror fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Agreement, the Exchange shall notify the Offeror in writing of such failure and the Offeror shall have the right to cure any alleged breach of its obligations under the Contract within the time specified in the notice from the Exchange. If the Offeror is unable to cure such breach during the specified time, the Exchange may terminate the Agreement by written notice to the Offeror. The notice shall specify the acts or omissions relied upon as cause for termination.
- B. The Offeror should also have the right to terminate the Contract for an uncured breach of the Exchange's obligations under the Contract.
- C. If this Contract is terminated under Section 14(A) or (B), all finished or unfinished work provided by the Offeror shall, at the Exchange's option, become the Exchange's property but shall be provided on an "AS IS" basis the Offeror should have no liability from the use of any such unfinished Work. The Exchange shall pay the Offeror fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Offeror's breach. If the damages are more than the compensation payable to the Offeror, the Offeror will remain liable after termination and the Exchange can affirmatively collect damages.

15. Termination for Convenience. The performance of work under this Contract may be terminated by the Exchange upon 30 days written notice to the Offeror by certified mail to the Offeror's principal office, or from time to time in part, whenever the Exchange shall determine that such termination is in the Exchange's best interest. The Exchange will pay all reasonable costs associated with this Contract that the Offeror has incurred up to the date of termination, and all reasonable costs associated with termination of the Agreement; provided, however, the Offeror shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

16. Suspension of Work. The Exchange unilaterally may order the Offeror in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Exchange may determine to be appropriate for the Exchange's convenience.

17. **Financial Disclosure.** The Offeror shall comply with the provisions of Md. Code Ann., State Finance and Procurement Article, §13-221, which requires that every person that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.
18. **Documents Retention and Inspection Clause.** The Offeror and sub-contractors resources shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the Exchange hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the Exchange, including the procurement officer or designee, at all reasonable times.
19. **Compliance with Laws.** The Offeror hereby represents and warrants that:
- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
 - B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
 - C. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
 - D. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.
20. **Assignment.** This Contract shall not be assigned by either contracting party without the prior written consent of the other party.
21. **Liability.** For breach of this Contract, negligence, misrepresentation or any other contract or tort claim, Offeror shall be liable as follows:
- A. For infringement of patents, copyrights, trademarks, service marks and/or trade secrets, as provided in Section 6 of this Contract;
 - B. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property;
 - C. For all other claims, damages, losses, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Offeror's liability shall be limited to three (3) times the total dollar amount of the Agreement value up to the date of settlement or final award of any such claim. Third party claims, arising under Section 8, "Indemnification", of this Contract, are included in this limitation of liability only if the Exchange is immune from liability. Offeror's liability for third party claims arising under Section 6 of this Contract shall be unlimited if the Exchange is not immune from liability for claims arising under Section 6.

22. Prompt Pay Requirements

- A. If the Offeror withholds payment of an undisputed amount to its subcontractors resources, the Exchange, at its option and in its sole discretion, may take one or more of the following actions:
- i. Not process further payments to the Offeror until payment to the subcontractors resources is verified;
 - ii. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
 - iii. Pay or cause payment of the undisputed amount to the subcontractors resources from monies otherwise due or that may become due;
 - iv. Place a payment for an undisputed amount in an interest-bearing escrow account;
or
 - v. Take other or further actions as appropriate to resolve the withheld payment.
- B. An “undisputed amount” means an amount owed by the Offeror to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation: (i) retainage which had been withheld and is, by the terms of the agreement between the Offeror and subcontractors resources, due to be distributed to the subcontractors resources; and (ii) in amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- C. An act, failure to act, or decision of a Procurement Officer or a representative of the Exchange, concerning a withheld payment between the Offeror and a subcontractors resources under this provision, may not (i) affect the rights of the contracting parties under any other provision of law; (ii) be used as evidence on the merits of a dispute between the Exchange and the Offeror in any other proceeding; or (iii) result in liability against or prejudice the rights of the Exchange.

23. **Federal Department of Health and Human Services (DHHS) Exclusion Requirements.** The Offeror agrees that it will comply with federal provisions (pursuant to §§1128 and 1156 of the Social Security Act and 42 CFR § 1001) that prohibit payments under certain federal health care programs to any individual or entity that is on the List of Excluded Individuals/Entities (LEIE) maintained by DHHS. By executing this Contract, the Offeror affirmatively declares that neither it nor any employee is, to the best of its knowledge, subject to exclusion. The Offeror agrees, further, during the term of this contract, to check the LEIE prior to hiring or assigning individuals to work on this contract, and to notify the Exchange immediately of any identification of the Offeror or an individual employee as excluded, and of any DHHS action or proposed action to exclude the Offeror or any Offeror employee.

24. **Legality; Severability.** In the event that any part or portion of these Mandatory Contract Provisions shall be deemed by appropriate judicial or regulatory authority to be void, to be voidable, unenforceable, or contrary to applicable statutory or regulatory authority, or if any provision shall have been omitted contrary to the requirements of such law, then all other

provisions hereof shall be unaffected thereby and shall remain in full force and effect. In such an event, if one party requests the other party, both parties shall endeavor to agree to such substitute language to the Mandatory Contract Provisions as shall best evidence their original intent hereunder, if there is no material harm thereby caused to the other party, and as shall best comply with all applicable requirements of law.

25. **Maryland's Public Information Act.** The Agreement is subject to Maryland's Public Information Act. Md. Ann. Code § 10-611 et seq.

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

OFFEROR

By: _____

Name: _____

Title: _____

Date: _____

**MARYLAND HEALTH BENEFIT
EXCHANGE**

By: _____

Name: _____

Title: _____

Date: _____

ATTACHMENT B – FEDERAL FUNDS REQUIREMENTS AND CERTIFICATIONS

A Summary of Certain Federal Fund Requirements and Restrictions

1. Form and rule enclosed: 18 U.S.C. 1913 and section 1352 of P.L. 101-121 require that all *prospective* and present subgrantees (this includes all levels of funding) who receive more than \$100,000 in federal funds must submit the form “Certification Against Lobbying”. It assures, generally, that recipients will not lobby federal entities with federal funds, and that, as is required, they will disclose other lobbying on form SF- LLL.
2. Form and instructions enclosed: “Form LLL, Disclosure of Lobbying Activities” must be submitted by those receiving more than \$100,000 in federal funds, to disclose any lobbying of federal entities (a) with profits from federal contracts or (b) funded with nonfederal funds.
3. Form and summary of Act enclosed: Subrecipients of federal funds on any level must complete a “Certification Regarding Environmental Tobacco Smoke, required by Public Law 103-227, the Pro-Children Act of 1994. Such law prohibits smoking in any portion of any indoor facility owned or leased or contracted for regular provision of health, day care, early childhood development, education or library services for children under the age of 18. Such language must be included in the conditions of award (they are included in the certification, which may be part of such conditions.) This does not apply to those solely receiving Medicaid or Medicare, or facilities where WIC coupons are redeemed.
4. In addition, federal law requires that:
 - A) OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations requires that grantees (both recipients and subrecipients) which expend a total of \$500,000 or more in federal assistance shall have a single or program-specific audit conducted for that year in accordance with the provisions of the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act of 1996, P.L. 104-156, and the Office of Management and Budget (OMB) Circular A-133. All subgrantee audit reports, performed in compliance with the aforementioned Circular shall be forwarded within 30 days of report issuance to the DHMH, Audit Division, 605 S. Chapel Gate Lane, Old School Building, Baltimore, MD 21229.
 - B) All subrecipients of federal funds comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the conditions of which are summarized in item (C).
 - C) Recipients of \$10,000 or more (on any level) must include in their contract language the requirements of Sections 503 (language specified) and 504 referenced in item (B).

Section 503 of the Rehabilitation Act of 1973, as amended, requires recipients to take affirmative action to employ and advance in employment qualified disabled people. An affirmative action program must be prepared and maintained by all contractors with 50 or more employees and one or more federal contracts of \$50,000 or more.



This clause must appear in subcontracts of \$10,000 or more:

- a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b) The contractor agrees to comply with the rules, regulations, and relevant orders of the secretary of labor issued pursuant to the act.
- c) In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the act.
- d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting office. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f) The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the [federal] secretary issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor vendor. The contractor will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 791 et seq.) prohibits discrimination on the basis of handicap in all federally assisted programs and activities. It requires the analysis and making of any changes needed in three general areas of operation- programs, activities, and facilities and employment. It states, among other things, that:

Grantees that provide health... services should undertake tasks such as ensuring emergency treatment for the hearing impaired and making certain that persons with impaired sensory or speaking skills are not denied effective notice with regard to benefits, services, and waivers of rights or consents to treatments.



- D) All subrecipients comply with Title VI of the Civil Rights Act of 1964, that they must not discriminate in participation by race, color, or national origin.
- E) All subrecipients of federal funds from SAMHSA (Substance Abuse and Mental Health Services Administration) or NIH (National Institute of Health) are prohibited from paying any direct salary at a rate in excess of Executive Level 1 per year. (This includes, but is not limited to, subrecipients of the Substance Abuse Prevention and Treatment and the Community Mental Health Block Grants and NIH research grants.)
- F) There may be no discrimination on the basis of age, according to the requirements of the Age Discrimination Act of 1975.
- G) For any education program, as required by Title IX of the Education Amendments of 1972, there may be no discrimination on the basis of sex.
- H) For research projects, a form for Protection of Human Subjects (Assurance/ Certification/ Declaration) should be completed by each level funded, assuring that either: (1) there are no human subjects involved, or that (2) an Institutional Review Board (IRB) has given its formal approval before human subjects are involved in research. [This is normally done during the application process rather than after the award is made, as with other assurances and certifications.]
- I) In addition, there are conditions, requirements, and restrictions which apply only to specific sources of federal funding. These should be included in your grant/contract documents when applicable.

Rev. 3/2008



CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source or applicable Federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this certification, the offeror/contractor (for acquisitions) or applicant/grantee (for grants) certifies that the submitting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The submitting organization agrees that it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

NAME: _____

TITLE: _____

GRANT NO: _____

STATE: _____



U.S. Department of Health and Human Services

Certification Regarding Lobby

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobby," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Award No.	Organization Entity
Name and Title of Official for Organization Entity	Telephone No. of Signing Official
Signature of Above Official	Date Signed

**DISCLOSURE OF LOBBYING ACTIVITIES**

Approved by OMB0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(see reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. Contract <input type="checkbox"/> b. Grant <input type="checkbox"/> c. Cooperative Agreement <input type="checkbox"/> d. Loan <input type="checkbox"/> e. Loan guarantee <input type="checkbox"/> f. Loan insurance		2. Status of Federal Action: <input type="checkbox"/> a. Bid/offer/application <input type="checkbox"/> b. Initial award <input type="checkbox"/> c. Post-award		3. Report Type: <input type="checkbox"/> a. Initial filing <input type="checkbox"/> b. Material change For Material Change Only: Year _____ quarter _____ Date _____ of _____ last _____ report _____	
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____			5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____		
6. Federal Department/Agency:			7. Federal Program Name/Description: CFDA Number, if applicable: _____		
8. Federal Action Number, if known:			9. Award Amount, if known: \$ _____		
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):			b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):		
11. Amount of Payment (check all that apply) \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned			13. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____		
12. Form of Payment (check all that apply) <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____					
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) SF-LLLA, if necessary)					
15. Continuation Sheet(s) SF-LLLA attached: <input type="checkbox"/> Yes <input type="checkbox"/> No					
16. Information requested through this form is authorized by title 31					



Maryland Health Benefit Exchange

U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____	
	Print _____	Name: _____
	Title: _____	
	Telephone No.: _____	Date: _____
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
10. (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form and print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

A PDF version of this form is available on-line at:
<http://www.whitehouse.gov/sites/default/files/omb/grants/sflll.pdf>



ATTACHMENT C – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

- A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage, or a reasonable member of the public might have the perception that the impartiality of the person is compromised. For purposes of identifying when a reasonable member of the public might have the perception of a potential conflict, if a person has engaged in a professional activity in the State of Maryland in the past 24 months in which the person was paid \$5,000 or more where the activity was in or directly related to one of the following areas, this might give rise to that perception and should be disclosed:
1. Health benefit exchanges;
 2. Health insurance;
 3. Health insurance carriers, broker, or dealers;
 4. Goods, equipment, materials, supplies, or information technology or telecommunication products of the type used by or reasonably likely to be used by the Exchange;
 5. Trade associations of health insurance carriers, health insurance agents or brokers, health care providers, or health care facilities or health clinics; or
 6. Personal services used by or reasonably likely to be used by the Exchange, including, but not limited to, health care and insurance research consulting firms.
- B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes an Offeror, Contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.
- C. The Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.
- D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):



- E. The Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____
(Authorized Representative and Affiant)

SUBMIT THIS AFFIDAVIT WITH THE TECHNICAL RESPONSE



ATTACHMENT D – Bid/Proposal Affidavit

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), possess the legal authority to make this Affidavit.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, §14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a Contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.



Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other State or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under State or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a State or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;



- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;
- (7) Been found civilly liable under a State or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or
- (9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).



F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State



Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

Revised August, 2011